APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,402	10/25/2000	Howard W. Fingerhut	BS00-189	2671

45695 7590 04/20/2007	EXAMINER	
WITHERS & KEYS FOR BELL SOUTH	DOAN, DUYEN MY	
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MARIETTA, GA 30007-1355	ART UNIT	PAPER NUMBER
	2152	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	09/695,402	FINGERHUT ET AL.
	Examiner	Art Unit	
	Duyen M. Doan	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2007*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-39,41-52 and 54-87* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-39,41-52 and 54-87* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 October 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to the submission filed on 1/24/07. Claims 1-5,7-39,41-

52,54-87 are presented for examination. Claims 6,40,53 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 1-5,7-39,41-52,54-87 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Sharon et al (us pat 6,137,782) (hereinafter Sharon) in view of Wan

et al (us pat 6,529,475) (hereinafter Wan) and further in view of Messinger et al (us pat

6,687,750) (hereinafter Mes).

As regarding claim 1, Sharon discloses generating a traffic log at a first location

within the network based upon detection of a packet (see Sharon col.3, lines 64-67;

col.4, lines 1-4; col.7, lines 1-7, store the information detected from the network packet in database), the traffic log containing a plurality of values detected the plurality of values including a network entry point of the packet, and a network exit point of the packet (see Sharon col.3, lines 64-67; col.4, lines 1-4; col.7, lines 1-7; analyzed each packet and determine the source and destination address); transferring the traffic log from the first location to a second location (see Sharon col.8, lines 10-30, information from the packet store in a file, transfer that file to central management engine); storing the traffic log generated by the network at the second location (see Sharon col.8, lines 39-59, store the file); analyzing the network entry and exit points of the packet (see Sharon col.8, lines10-30).

Sharon does not explicitly disclose wherein the packet state includes a congested state; creating a histogram file; analyzing the stored traffic log to determine the time of creation of the traffic log and updating the histogram file using at least the time of creation of the traffic log; wherein the histogram file is utilized to monitor network conditions in near real-time enabling the detection and correction of network overloads and congestion before network customers are affected.

Wan teaches the extracted information from the network packet and determine the congestion of the network (see Wan col.6, lines 15-44).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Wan to the method of Sharon to determine the congestion state of the packet for the purpose of improving flow of data traffic within a communications network (see Wan col.1, lines 8-14).

The combination of Sharon and Wan does not teach creating a histogram file; analyzing the stored traffic log to determine the time of creation of the traffic log and updating the histogram file using at least the time of creation of the traffic log; wherein the histogram file is utilized to monitor network conditions in near real-time enabling the detection and correction of network overloads and congestion before network customers are affected.

Mes discloses creating a histogram file (see Mes col.4, lines 12-19, bar charts, graph);analyzing the stored traffic log to determine the time of creation of the traffic log and the network entry and exit points of the packet (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52); and updating the histogram file using at least the time of creation of the traffic log (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19); wherein the histogram file is utilized to monitor network conditions in near real-time enabling the detection and correction of network overloads and congestion at one of a network node and a network node link before network customers are affected (the wherein clause merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim, for example, one person with ordinary skill in the art having a method as discloses by Sharon, Wan and Mes would use this method for monitor network condition, correcting congestion before the user affected, the same method can be use to monitor the qos or else is up to user what he/she want to use it for (see MPEP 2111).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Mes to the method of Sharon-Wan to

include the histogram file for the purpose of visualizing the display of network traffic

information, allowing the administrator to rapidly obtain and assimilate substantial

amount of information (see Mes col.1, lines 5-9, lines 57-67).

As regarding claim 2, Sharon-Wan-Mes discloses wherein the histogram file is a

flat file, whereby direct and rapid access to stored data is effected (see Mes col.1, lines

57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). The same motivation was

utilized in claim 1 applied equally well to claim 2.

As regarding claim 3, Sharon-Wan-Mes discloses wherein two histogram files are

created, a first histogram being representative of traffic being passed into the network

and a second histogram being representative of the traffic being passed from the

network (see col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19, if

one can generate a histogram file, it is obvious to generate a second one or a third one

base on the criteria set, in this case the ingress point and the egress point).

As regarding claim 4, Sharon-Wan-Mes discloses the histogram file is

representative of traffic passing to a host connected to the entry or exit point (see

Sharon col.7, lines 1-7; col.8, lines 10-30).

As regarding claim 5, Sharon-Wan-Mes discloses repeating steps (b) - (d) for at least a predetermined period (see Sharon col.3, lines 64-67; col.4, lines 1-4; col.7, lines 1-7).

As regarding claim 7, Sharon-Wan-Mes discloses wherein the histogram plots packets per minute versus time (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). The same motivation was utilized in claim 1 applied equally well to claim 7.

As regarding claim 8, Sharon-Wan-Mes discloses broadcasting from a server computer data representative of the histogram to a client computer (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). The same motivation was utilized in claim 1 applied equally well to claim 8.

As regarding claim 9, Sharon-Wan-Mes discloses wherein the network is a Mobitex network (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). (note: Mobiltex technology is a well-known packet data network).

As regarding claim 10, Sharon-Wan-Mes discloses displaying a histogram based on data in the histogram file (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19).The same motivation was utilized in claim 1 applied equally well to claim 10.

As regarding claim 11, Sharon-Wan-Mes discloses creating at least one histogram for each host of the network (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). The same motivation was utilized in claim 1 applied equally well to claim 11.

As regarding claim 12, Sharon-Wan-Mes discloses selecting for display the at least one histogram for a particular host (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19). The same motivation was utilized in claim 1 applied equally well to claim 12.

As regarding claim 13, Sharon-Wan-Mes discloses monitoring a central location of the network for new traffic logs (see Mes col.1, lines 57-67; col.2, lines 1-37; col.3, lines 28-52, col.4, lines 6-19).

As regarding claim 14, the limitations of claim 14 are similar to limitations of rejected claim 1 above, Sharon further discloses determining a network path between the entry and exit points of the packet; determining whether the node falls along the network path (see Sharon col.9, lines 21-61; col.11, lines 51-67).

As regarding claims 15-24, the limitations of claims 15-24 are similar to limitations of claims 1-5, 7-13, therefor rejected for the same rationales as claims 1-5, 7-13.

As regarding claim 25, the limitations of claim 25 are similar to limitations of rejected claim 1 above, Sharon further discloses determine whether a link falls along the network path; determining a number of bytes carried by the packet associated with the traffic log (see Sharon col.9, lines 21-61; col.11, lines 51-67).

As regarding claims 26-35, the limitations are similar to limitations of claims 2-5, 7-13, therefore rejected for the same rationales as claims 2-5, 7-13.

As regarding claim 36, the limitations of claim 25 are similar to limitations of rejected claim 1 above, Mes further discloses deleting the traffic log (see Mes col.3, lines 28-52, delete the file at the administrator discretion). The same motivation was utilized in claim 1 applied equally well to claim 36.

As regarding claims 37-39,41-42, the limitations are similar to limitations of claims 2-5, 7-13, therefore rejected for the same rationales as claims 2-5, 7-13.

As regarding claims 43-48, the limitations are similar to limitations of claims 14-24, therefore rejected for the same rationales as claims 14-24.

As regarding claims 49-52,54-59, the limitations are similar to limitations of claims 1-5,7-13, therefore rejected for the same rationales as claims 1-5,7-13.

As regarding claims 60-68, the limitations are similar to limitations of claims 14-24, therefore rejected for the same rationales as claims 14-24.

As regarding claims 69-77, the limitations are similar to limitations of claims 14-24, therefore rejected for the same rationales as claims 14-24.

As regarding claims 78-83, the limitations are similar to limitations of claims 14-24, therefore rejected for the same rationales as claims 14-24.

As regarding claims 84-87, the limitations are similar to limitations of claims 14-24, therefore rejected for the same rationales as claims 14-24.
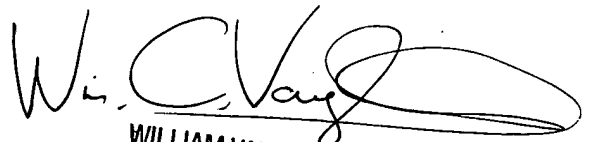
Response to Arguments

Applicant's arguments with respect to claims 1-5,7-39,41-52,54-87 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner
Duyen Doan
Art unit 2152

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